

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**May 25, 2000**

DIVISION ONE

B132359 Khoilian (Not for Publication)  
v.  
Irell & Manella et al.

Following our independent review of the moving and opposing papers and supporting evidence, we conclude that there is no triable issue of material fact, and that the moving party below was entitled to judgment as a matter of law. (Code Civ. Proc., sec. 437c, subd. (c); *Walker v. Blue Cross of California* (1992) 4 Cal.App.4th 985, 990.) We accordingly affirm the trial court's order granting the motion for summary judgment. Respondent shall recover costs on appeal.

Aragon, J. (Assigned)

We concur: Spencer, P.J.  
Masterson, J.

B135926 People (Not for Publication)  
v.  
Mario D. E.

The matter is remanded to the trial court with instructions that it set the maximum term of confinement at 5 years as required under Welfare and Institutions Code section 726, subdivision (c), and further direct the trial court to amend its order to delete the requirement that the minor cooperate in a plan for psychiatric or psychological testing or treatment as a condition of probation. In all other respects, the trial court's order sustaining petition is affirmed.

Aragon, J. (Assigned)

We concur: Spencer, P.J.  
Masterson, J.

May 25, 2000-Continued

## DIVISION ONE (Continued)

B133505      Deallen                                  (Not for Publication)  
v.  
U.S.A. Auto Body, Inc., et al.

The judgment in favor of defendants is reversed and the action remanded to the trial court for further proceedings. Plaintiff is to recover his costs on appeal.

Aragon, J. (Assigned)

We concur: Spencer, P.J.  
Ortega, J.

DIVISION TWO

Court convened at 9:00 A.M.

Present: Boren, P.J., Nott, J., Cooper, J. and G. Villanueva, Deputy Clerk.

Each of the following:

B129249 Morgan v. Morgan  
B132908 People v. Powell  
B132558 People v. Stanfield  
B135541 People v. Cass  
B136571 People v. Hughes  
B128192 People v. Morales & Pozo  
B133543 People v. Jones  
B128613 People v. Ranger Insurance Company  
B131280 Moore v. Moore  
B129923 People v. Howard  
B131795 People v. Aguirre  
B130477 People v. Christian  
B136914 People v. Alan G.  
B132968 People v. Villasenor  
B134778 People v. Daniels  
B132653 People v. Perez  
B134261 People v. Holt  
B132308 People v. Houston  
B132709 People v. Edwards

DIVISION TWO (Continued)

Each of the following (continued):

B130947 People v. Davis  
B127568 People v. Johnson & Smith  
B137221 People v. Taylor  
B132754 Seven Star Garment v. Ho  
B132775 Scully v. Quartell  
B134401 People v. Adam Z.  
B137731 People v. Williams (Cedric)  
B139471 Southard v. S.C.L.A.  
B135712 In re Cassandra C.  
B126925 Gershman v. Gershman  
B134142 In the Matter of Domenci D.  
B131560 Snyder v. Donahue  
B133143 In the Matter of Andrew R.  
B133593 People v. Rogers  
B136654 People v. Vernon  
B131994 People v. David G.  
B126273 Western Dye v. Loeb & Loeb  
B135285 In re Alex L.  
B131010 People v. Arias  
B135428 People v. Johnson

Argument waived, cause submitted.

B127276     People  
              v.  
              Nwandu

Merits:

Argued by Marilyn White-Redmond for appellant and by Carl Henry, deputy attorney general, for respondent. Appellant given 10 days to file letter brief, respondent has 10 days to reply, then matter to stand submitted.

DIVISION TWO (Continued)

B136214     Haak  
              v.  
              Tellez

Merits:

Argued by Vernon Lauridsen for appellant and by Ira Friedman for respondent. Cause submitted.

B129057     Dantco  
              v.  
              Nyznyk  
              Clark

Merits:

Argued by Kenneth Jones for appellant, by Randall Miller for respondent Nyznyk, and by Richard Clark respondent in propria persona. Stiles Wegener counsel for Mirassou waives oral argument. Cause submitted.

B138964     Save Open Space  
              v.  
              Superior Court, Los Angeles County  
              (County of L.A., r.p.i.)

Mandate:

Presented by Curtis Horton for petitioner and opposed by Stanley Lamport for real party in interest. Cause submitted.

B131989     Campos  
              v.  
              Minnesota Mining  
              Mallinckrodt Medical

Merits:

Argued by James Kropff for appellant, by Frank Rothrock for respondent Minnesota Mining and by Mark Geraghty for respondent Mallickrodt Medical. Cause submitted.

## DIVISION TWO (Continued)

B126831      Weisbroad et al.  
v.  
Bank of America  
Buteyn and White

Merits:

Argued by Russell Rapoport for appellant, by Randall Kennon for respondent Bank of America and Joel Spivak for respondent Buteyn and White. Cause submitted.

B133184 Sawyer et al.  
v.  
MCM Construction Company

Merits:

Argued by Bryce Anderson for appellants and by Robert Steller for respondent. Cause submitted.

Court adjourned.

DIVISION THREE

B125760      People                          (Not for Publication)  
v.  
**Williams**

The judgment is modified by imposing a \$200 restitution fine pursuant to Penal Code section 1202.45 and, as modified, is affirmed. The trial court is directed to forward to the Department of Corrections an amended abstract of judgment reflecting the above modification and the trial court's imposition of a \$200 restitution fine pursuant to Penal Code section 1202.4, subdivision (b).

Croskey, J.

I concur: Klein, P.J.  
I dissent: Kitching, J. (Opinion)

### DIVISION THREE (Continued)

[illegible]

The judgment is modified by striking the Health and Safety Code section 11379.8, subdivision (a)(1), enhancement on appellant's sentence for his conviction for possessing methamphetamine for sale (count two), and by imposing a \$200 restitution fine pursuant to Penal Code section 1202.45. As modified, the judgment is affirmed. The trial court is directed to forward to the Department of Corrections an amended abstract of judgment reflecting the above modifications and the trial court's imposition of a \$200 restitution fine pursuant to Penal Code section 1202.4, subdivision (b).

Croskey, J.

I concur: Klein, P.J.  
I dissent: Kitching, J. (Opinion)

B130194 People (Not for Publication)  
v.  
Morales

The judgment is modified by striking the Penal Code section 667, subdivision (a), enhancement based on the first degree residential burglary conviction on count two in case No. PA021612, thereby reducing appellant's total unstayed prison term of 80 years to life and, as modified is affirmed. The trial court is directed to forward to the Department of Corrections an amended abstract of judgment reflecting the above modification.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

DIVISION THREE (Continued)

B130414 People (Not for Publication)  
v.  
Petersen

The judgment is affirmed.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

B131241 People (Not for Publication)  
v.  
Romero

The judgment is affirmed.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

B133204 People (Not for Publication)  
v.  
Segura

The judgment is affirmed.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

### DIVISION THREE (Continued)

B133394 People v. Chang (Not for Publication)

The appeal is dismissed.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

[illegible]

The judgment is affirmed, except that it is modified by awarding an additional 102 days custody credit pursuant to Penal Code section 2900.5 for the period May 14, 1999, to August 23, 1999, inclusive, and the matter is remanded and the sentencing court is directed to award, consistent with this opinion, Penal Code section 4019 conduct credits earned in jail during the period commencing on May 14, 1999, and ending immediately prior to the commencement of appellant's imprisonment pursuant to his initial sentencing. The sentencing court's award is to be entered without prejudice to appellant's right to receive appropriate behavior and work credits for the entire period of his prison confinement as determined by the California Department of Corrections. The sentencing court is directed to forward a copy of an amended abstract of judgment reflecting the above to the Department of Corrections.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                      Aldrich, J.



DIVISION THREE (Continued)

B121966      Hospital Learning Centers et al.      (Not for Publication)  
v.  
Century Properties, Inc., et al.

The award of \$148,000 in prejudgment interest is stricken from the judgment. As modified, the judgment is affirmed.  
The postjudgment order denying attorney fees is affirmed as to Century and is reversed as to ITL-VEN. The matter is remanded to the trial court with directions to award plaintiffs their reasonable attorney fees incurred in this action, including on appeal. Each party shall bear their own costs on appeal.

Klein, P.J.

We concur:    Croskey, J.  
                  Kitching, J.

B132436      Ruby Raymond                              (Not for Publication)  
v.  
Los Angeles Metropolitan Transportation Authority

The judgment is affirmed. Respondent(s) to recover costs.

Croskey, J.

We concur:    Klein, P.J.  
                  Aldrich, J.

B126695      Paul A. Lessler et al.                      (Not for Publication)  
v.  
EMR, Inc., et al.

The judgment is affirmed, and the order awarding attorney fees is reversed. Each party shall bear its own costs on appeal.

Croskey, Acting P.J.

We concur:    Kitching, J.  
                  Aldrich, J.

DIVISION THREE (Continued)

B129141      Serra Canyon Property Owners Assoc., et al.      (Not for Publication)  
v.  
Department of Parks and Recreation

The judgment is reversed and the matter is remanded for further proceedings consistent with this opinion. The Parks Department shall recover its costs on appeal.

Croskey, J.

We concur: Klein, P.J.  
Kitching, J.

DIVISION FOUR

B134897      Boon      (Certified for Publication)  
v.  
Rivera

The judgment is reversed. The matter is remanded to the trial court to vacate the order sustaining the demurrers to the causes of action against Milagro and to enter a new and different order, overruling the demurrer to the third cause of action by Donald Boon against Milagro Rivera, overruling the demurrer to the fourth

Rubin, J. (Assigned)

We concur: Hastings, Acting P.J.  
Curry, J.

## DIVISION FOUR (Continued)

B139641      People                          (Not for Publication)  
v.  
Luna

The judgment is affirmed.

Curry, J.

We concur:   Hastings, Acting P.J.  
                  Rubin, J. (Assigned)

DIVISION FIVE

B136318 People (Not for Publication)  
v.  
Gonzalez

The judgment is modified to impose a \$200 Penal Code section 1202.4, subdivision (b) restitution fine and a suspended \$200 Penal Code section 1202.45 assessment. In all other respects, the judgment is affirmed. On remand, the clerk of the superior court is to prepare and deliver to the Department of Corrections an amended abstract of judgment.

Turner, P.J.

We concur: Grignon, J.  
Godoy Perez, J.

B136574 People (Not for Publication)  
v.  
Brown

The judgment is affirmed.

Turner, P.J.

We concur:    Armstrong, J.  
                          Godoy Perez, J.

## DIVISION FIVE (Continued)

B124407      Albertini      (Not for Publication)  
v.  
Goldstein

The judgment is modified to be in the sum of \$11,686 with interest at the legal rate to run from the date of the entry of judgment. In all other respects the judgment is affirmed. Both sides are to bear their own costs incurred on appeal.

Turner, P.J.

We concur:    Armstrong, J.  
                          Godoy Perez, J.

B135718      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
Barbara M.

The order is affirmed.

Turner, P.J.

We concur: Grignon, J.  
Godoy Perez, J.

B131013      People  
v.  
Martinez

Filed order modifying opinion. (No change in the judgment)

B129897      Doreen & Holly  
v.  
Westland

Filed order denying petition for rehearing.

## DIVISION FIVE (Continued)

B133091      Communities for a Better Environment  
v.  
City of Santa Fe Spring  
Cenco Refining Company

Filed order modifying opinion. Petition for rehearing is denied. (Change in judgment)

DIVISION SIX

B139529      In re Townsend on Habeas Corpus      (Not for Publication)

The writ of habeas corpus is granted. The order for contempt is annulled. The order to show cause, having served its purpose, is discharged.

Gilbert, P.J.

We concur: Coffee, J.  
Perren, J.

B130111 People (Not for Publication)

V.  
Highhouse

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.  
Perren, J.

## DIVISION SIX (Continued)

B135819      People                                  (Not for Publication)  
v.  
Kenny Lamar N.

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.  
Perren, J.

DIVISION SEVEN

B126225      BNY Western Trust Company      (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Squier, r.p.i.)

Let a peremptory writ of mandate issue compelling the superior court to vacate (1) its orders of dismissal pertaining to the sustaining of demurrers without leave to amend, (2) its orders sustaining demurrers without leave to amend, and (3) its order denying the motion of Petitioners, BNY and Farmers Insurance Exchange, Truck Insurance Exchange, and Farmers New World Life Insurance Company for leave to amend the first amended complaint to add additional bondholders as plaintiffs, and to enter new and different orders (1) sustaining the demurrers with leave to amend, and (2) granting the motion for leave to amend the first amended complaint. In all other respects the petition for writ of mandate is denied. The stay of Los Angeles County Superior Court case number BC161090 shall be vacated when this decision is final as to this court. Each party to bear their own costs.

Woods, J.

I concur: Neal, J.  
I concur and dissent: Johnson, Acting P.J. (Opinion)